



Town of Tyngsborough Zoning Board of Appeals

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APPROVED

Board of Appeals Meeting Minutes for October 14, 2010

Members Present: Chris Mechalides, Claire Cloutier, Cheryl Bradley, Joseph Polin and alternate member Scott Bordeleau

The Chairman called the meeting to order at 6:30PM

First Hearing: _Thomas A. Lantry, Trustee Tall Revocable Trust – 50 Mission Rd.; Assessors Map 29; Lot 56; request a Variance to maintain an existing two family use in an area zoned R-1 Zone, Section 2.11.42, 2.11.30, 2.15.21, 2.12.50, 2.15.22, 2.15.24. *Advertised in the Lowell Sun on September 23, 2010 and September 30, 2010*

Motion: Made by Chris Mechalides and seconded by Claire Cloutier to waive the reading of the abutters list. Motion carried.

The applicant was represented by Attorney Scott Carmen, of Gallant & Ervin, LLC. The application was read. An affidavit from Gary Lowe was presented stating he was in favor of the variance. Also submitted from David Soper of 54 Mission Road was a phone message taken by the Boards Secretary stating that if this is approved he would want the town to tax Mr. Lantry for the tax difference, that of rental property . He was unable to attend the meeting.

The applicant's attorney stated that there was a hardship because the property is rented and tenants had an illness in their family. Also a hardship because Mr. Lantry would loose rental income. He explained to the Board that this has been an apartment for many years and has separate utilities, however he could not provide the Board with proof that it was a legal apartment built with any building permit other than a garage.

The applicant advised the Board that he currently has an open case in Superior Court against the Town of Tyngsborough for a previous denial on this same piece of property. That hearing was based on an appeal of the Building Inspectors ruling (2005) regarding this illegal apartment on this property.

The Chair then opened the public portion of the meeting and asked if there were any abutter in favor or opposed. Several abutters were in attendance and all in attendance were opposed to granting a variance for this apartment.

Mr. Lloyd H. Snowdon of 10 Hamblett Avenue has been an abutter for 25 years and gave a summary of issues that have gone on for a very long time with this property, including the fact that Mr. Lantry has blocked off a portion of Hamblett Avenue which causes a safety hazard. He had many issues with tenants past and present. Mr. Snowdon was certain this was built illegally and is opposed to the variance being granted.

Mr. Robert A. Wallace of 6 Hamblett Avenue a resident for over 30 years said that the building was put up as a garage and slowly over the years turned into a residence. Mr. Wallace also stated that since this garage became an apartment the access road has been blocked and a safety hazard.

Duane C. Crandall of 5 Hamblett Avenue stated that he has had issues and concerns about fire on that property and that the safety equipment would no longer have access to the area because the road had been blocked by a fence which he felt was about 10 feet from where it should be.

Paulette L. Grout of 1 Hamblett Avenue as resident at this address for over 25 years was clear that she was against and wondered why Atty. Zaroulous was not in attendance since this case is already in court. She stated that the garage was build on Hamblett Avenue (a paper street) and then became a residence. She also stated that she spoke with the Tyngsboro Building Department and they had searched for building permits and found none.

Motions were made as follows:

The Board heard all evidence pertinent to the area and garage/apartment by the abutters and a

Motion was made by Claire Cloutier to close the public portion of the hearing and seconded by Joseph Polin. Motion carried

Board member Joseph Polin asked Mr. Lantry what the permit was issued for and he stated that it was for a garage and dwelling but he could not provide a building permit or occupancy permit to verify his statement. Mr. Polin had concerns about the fact that the Hamblett Avenue was blocked even if it was a "paper street" and suggested that this should be looked into by the Building Department. Mr. Polin suggested that Attorney Zaroulis be contacted to find the paper trail for these permits, sign offs and occupancy permit. Mr. Lantry said that this had been done and that the Building Department could not locate these documents and Mr. Lantry was clear that he does not have copies.

Board member Claire Cloutier voiced her concerns about the board granting a variance for a second dwelling on this property after it was already built and occupied and what type of precedence this was make. Cloutier shared concerns about creating a non-conforming parcel.

There was no further discussion.

Motions were made as follows:

Motion was made by Joseph Polin and Seconded by Claire Cloutier to **Deny** the request of Thomas Lantry for a variance to have an apartment in addition to the primary home at 50 Mission Road, Tyngsboro, MA

Motion was unanimous and carried 5 0

Other Business:

The Board discussed the name change at Maple Ridge of the apartment parcel to Whittman Woods. A representative from the Maple Ridge Adult development was in attendance and they are in favor of the apartments having a separate identity.

The Board reviewed the information on the status of the 53G accounts for the 40B projects.

Whispering Pines Estates was to come before the Board for discussions continued from August 5, 2010 regarding a modification to the comprehensive permit and requested that this discussion be continued to November 11, 2010 meeting.

Motion to adjourn made by Joseph Polin, seconded by Chris Mechalides